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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,024	04/01/2005	Mathias Bergman	014975-113	2906
21839 7590 02/01/2008 BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			EXAMINER LUKTON, DAVID	
			ART UNIT 1654	PAPER NUMBER
			NOTIFICATION DATE 02/01/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Office Action Summary**

Application No.

10/530,024

Applicant(s)

BERGMAN ET AL.

Examiner

David Lukton

Art Unit

1654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 13-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 5 is/are rejected.
- 7) ☒ Claim(s) 2-4 and 6-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Applicants' previous election of Group 1 (claims 1-12, 21) is again acknowledged. Also acknowledged is the elected specie, which is the peptide DIREK in which the epsilon amino group of lysine is covalently bonded to the *beta*-carboxyl group of aspartic acid. Claims 1-12 are examined in this Office action; claims 13-30 are withdrawn at the present time.



Claims 11 and 12 are objected to. A colon, rather than a period should be used, as follows:

SEQ ID NO: 3.



Claim 1 is rejected under 35 U.S.C. §112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites that each of Cy and Cyy can be a moiety that forms a cyclic structure through a "hydrazone-like" structure. However, this renders the claim indefinite as to the manner in which or the extent to which the moiety must resemble a hydrazone.



The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action.

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 5 are rejected under 35 U.S.C. §102(e) as being anticipated by Bogoch (US 2003-0194414).

Bogoch discloses various peptides that fall within the scope of claim 1, such as SEQ ID NOS: 75, 692, 274 and 601.

Consider, for example SEQ ID NO: 75, which is the following:

Lys-Glu-Lys-Leu-Arg-Asp-Val-Met-Val-Asp-Arg-His-Lys

This falls within the scope of claim 1 when the substituent variables are as follows:

Dd-Ee-Ff = Leu-Arg-Asp

Cy = Lys

(R<sub>r</sub>)<sub>m</sub> = Val-Met-Val

Cyy = Asp

Or consider SEQ ID NO: 601, the first 11 amino acids of which are the following:

**His-Lys-Asp-Arg-Leu-Thr-Lys-Lys-Val-Val-Asp**

This falls within the scope of claim 1 when the substituent variables are as follows:

Cy = Lys

Dd-Ee-Ff = Asp-Arg-Leu

(R<sub>r</sub>)<sub>m</sub> = Thr-Lys-Lys-Val-Val

Cyy = Asp

Thus, the claims are anticipated.



DAVID LUKTON, PH.D.  
PRIMARY EXAMINER

✧

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lukton whose telephone number is 571-272-0952. The examiner can normally be reached Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang, can be reached at (571)272-0562. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.